



# CORDELL BANK NATIONAL MARINE SANCTUARY SANCTUARY ADVISORY COUNCIL

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## MEETING MINUTES

June 25, 2014

1:15 PM

Point Blue Conservation Science, Petaluma, CA

Note: The following meeting notes are an account of discussions at the meeting of the Sanctuary Advisory Council for Cordell Bank National Marine Sanctuary (CBNMS) and do not necessarily reflect the position of CBNMS and the National Oceanic and Atmospheric Administration (NOAA).

### **Call to Order/Welcome/Roll Call** (George Clyde)

Advisory Council Chair George Clyde called the meeting to order at 1:15 PM. He welcomed everyone, then called roll.

### Members and Alternates Present:

George Clyde (Chair; Community-at-Large - Marin)  
Mike Cummings (Community-at-Large - Marin Alt.)  
Bill Wolpert (Community-at-Large - Sonoma)  
Sarah Hameed (Community-at-Large - Sonoma Alt.)  
Lance Morgan (Conservation)  
Todd Steiner (Conservation Alt.)  
Leslie Adler-Ivanbrook (Education)  
Rachel Bergren (Education Alt.)  
Richard Ogg (Fishing)  
Noah Wagner (Fishing Alt.)  
John Berge (Maritime Activities Alt.)  
Joseph Scarpa (NOAA Fisheries [non-voting])

Members of the CBNMS staff were also present:

Dan Howard (Sanctuary Superintendent)  
Lilli Ferguson (Resource Protection Specialist and advisory council coordinator)  
Jennifer Stock (Education and Outreach Coordinator)

### **Review and Approve Agenda** (George)

The agenda was reviewed and unanimously approved by the advisory council.

### **Review and Approve May Meeting Minutes** (George)

The May 1, 2014 meeting minutes of the joint meeting with the Gulf of the Farallones National Marine Sanctuary Advisory Council were reviewed. John Berge moved to approve them and Lance Morgan seconded the motion. All were in favor. The minutes of the May joint meeting of the sanctuary advisory councils were accepted as final.

Sanctuary Superintendent Dan Howard presented a plaque to George, recognizing him as Volunteer of the Year for CBNMS, and thanked him for his hard work. Dan then introduced Joseph Scarpa, the NOAA Fisheries representative to the CBNMS Advisory Council and the NOAA law enforcement officer covering the CBNMS region. George thanked him for coming and mentioned the advisory council used to receive enforcement reports. Joe said he would like to do those when there was something to report.

### **Statement on the Value of Marine Protected Areas to Recreation, Tourism and Coastal Communities (George)**

George reported on the meeting in June of the advisory council chairs and the members of the Marine Protected Areas Federal Advisory Committee (FAC) – managed under Dan Basta at the Office of National Marine Sanctuaries (ONMS). The groups had parallel meetings and some time together, during which they considered a subject raised previously – tourism in marine protected areas (MPAs). The groups considered finalizing a statement on a recreational component of that, recreational uses in marine sanctuaries. The FAC approved it, and the charge at the meeting was for each sanctuary advisory council to consider approving having their chairs sign it in its entirety. The groups were pretty efficient in coming up with a final draft in a day and a half, and included a few qualifications in the statement, such as benefits to resources, benefits to the community from recreation and some possible detriments too. The call to action is to agencies and organizations. Bill Wolpert moved to approve the declaration for the MPAs; this was seconded by Leslie Adler-Ivanbrook.

Discussion ensued. The ultimate use of the piece is that Dan Basta hopes to use it as a piece to shop around to demonstrate the value of marine sanctuaries as a destination and use as leverage for funding. Lance noted the interest MPWC users might take in it. Dan and George both talked about the balance of tourism and using resources responsibly as people recreate. The document also says there are many types of areas that fit the definition of MPA, and some may be primarily for recreation. Section three talks about how important it is to protect the resources and values and section four talks about the desire to get recreational users as ocean stewards. The document is not just about national marine sanctuaries, it covers all the types of MPAs ONMS deals with, as it is the umbrella organization over the MPA Center and the MPA FAC.

George asked if the advisory council approved the motion. All were in favor. Hearing no objection, George deemed the motion passed.

### **Public Comment**

Amy Trainer, Executive Director, Environmental Action Committee of West Marin: She was strongly in favor of the proposed boundary expansion of CBNMS and Gulf of the Farallones National Marine Sanctuary (GFNMS), and noted she wanted to work with Congressman Jared Huffman on taking the area to the Oregon border. She was strongly against any regulation changes. She felt that under former Congresswoman Lynn Woolsey, the deal was to get the expansion, carry over existing regulations, and if regulation changes were to be talked about, particularly authorization which she felt would have no due process, to do that in an entirely separate process. She hoped the SAC would not support those things, and would pass a resolution supporting boundary expansion, but with existing regulations. She did support a surfer safety program, with jet skis for that purpose allowed by permits.

George, Lance and Dan clarified there were no proposed jet ski regulations in the CBNMS proposed expansion.

Tom Lambert [Cordell Marine Sanctuary Association]: Tom briefly reported CMSA was revising its website, which would be fantastic, and that it would launch in a few weeks. He then noted that previously he had worked on the proposed expansion, and he and Dan had made it known that the CBNMS expansion would only cover the shallower half of Bodega Canyon; the advisory council passed a resolution in 2007 to add a 354 square nautical mile area to the CBNMS area in HR 1187, to include the western half of Bodega Canyon, and it was in the bill when it passed the U.S. House of Representatives. The advisory council was part of the entire process and was instrumental in configuring the boundaries; this configuration was carried forward and is included in the current proposed boundaries. Tom mentioned a comment at the Bodega Bay June 19 public hearing caught his attention, about prohibiting mining; he felt mining of rare earth, needed by the high tech industry, could be a concern for mining CBNMS in the future. Expanding the boundary would protect the seabed, the sediment, and create a bigger buffer around the bank. He hoped the advisory council would support the expansion.

Gordon Bennett [Save Our Seashore]: He said in 2002, he was the [National Marine Sanctuary Foundation] Volunteer of the Year and stood on stage with Dan Basta. He hoped the advisory council knew what it was doing when it signed off on the Call to Action. He said he had a good vibe about the expansion but was concerned about authorization; he felt there was no public component with it. He knew the sanctuary might need to consider and tweak existing regulations. Some are good, such as for enforcement. He recommended they be considered one at a time, he recommended. He wasn't saying the current Superintendent was a bad guy or would become one, but he didn't know what would happen in future. In his letter, he noted in January 2013 a proposal was slipped in that allowed the public to vote for more sanctuaries, and buried in that was a proposal to take away the right to object to permits. He did not know if that proposed rule passed or not. He felt the Office of National Marine Sanctuaries (ONMS) was slipping in things to take away rights from the public, an important right the public has.

Norma Jellison: She stated she lives in Bodega Bay and is a longtime volunteer with Seal Watch and Whale Watch, both programs with Stewards of the Coasts and Redwoods, in support of state parks, and a longtime advocate of the two sanctuaries. She asked the advisory council to consider inclusion of the Russian, Gualala, and Garcia estuaries in the expansion project as originally in [former Congresswoman] Lynn Woolsey's bill. She mentioned how everything is connected, and there has been an area of high biological diversity/a pinniped hotspot at the Russian River for over 30 years. She said the river was also a Dungeness Crab nursery and important for salmonids and other species. The other two rivers also have hot spots of biological diversity. She was concerned about discharge of polluted water coming down river and entering the sanctuaries. She mentioned those who expressed support for this at the Bodega Bay hearing. Then then noted the GFNMS advisory council passed a resolution against the authorization regulation. She said it lacked parameters, scientific consideration, and consideration by the public. She felt it could be a wolf in sheep's clothing and mentioned possible political machination by the water agency and dischargers. Norma then wondered how the watercraft zones got into the DEIS, and wondered if it was due to political influence by recreational Motorized Personal Water Craft (MPWC)

operators. She said the zones were not requested by Surfrider for safety and rescue in high surf times for safety. She concluded by asking that the advisory council acknowledge that the zones could have surfer safety MPWC use if the resources were safeguarded.

John asked it was outside the purview of the advisory council to comment on MPWC, boundaries, etc. that were not part of the CBNMS expansion. George said the advisory council could talk about anything, but people have an opportunity to individually comment on those matters or any others, not as part of the advisory council, and submit it as he had already done.

Dan said he hoped today the advisory council would focus on CBNMS issues, since the intention of this meeting was to have that discussion today. He also mentioned the difference between recording advisory council discussions, and official submittal and recording of public comment on the proposed expansion project.

### **Discussion of CBNMS Portion of DEIS and Proposed Rule and of Draft Revised CBNMS Management Plan – Proposed Expansion (Dan and George)**

George referred to the materials he had prepared and sent to the advisory council in advance of the meeting with his views, and asked to hear from everyone else.

In response to a question, Dan explained that the state, local counties and cities do have input into the proposed project; he said the governor does have some veto power, but CBNMS is entirely offshore in federal waters. When letters from agencies come in, they will be posted online, he said.

Lance asked what would happen if CBNMS did not have the ability to authorize; for example, what if the Coast Guard wanted to do a live fire drill. It depended on what the request was, Dan replied; if it was something related to sanctuary management, he thought there was the ability to permit it under the manager's permit. He said research and monitoring, education, management, and salvage could be permitted, if it could be demonstrated they contributed to management of the sanctuary.

Sarah Hameed thought it sounded as if something unforeseen that did not fall under one of the permit categories came along, it sounded like something would have to be added to the management plan or just say no to the activity. Dan said a management issue could be addressed at any time, and a regulation could be issued at any time, but the amount of time to do so varied as work would need to be done with the regional office, the Office of General Counsel, etc.

George pointed out a project already permitted by a state, local or federal agency would have its own process of vetting. Dan had given an example that for something like a fiber optic cable, the National Environmental Policy Act (NEPA) would have to be followed.

Todd Steiner was concerned about proper environmental review, and asked how other superintendents felt about authorization. Dan said there were five that had it, and of four he talked to, all saw it as a necessary tool for them to have to deal with small issues that come up that would take an inordinate amount of time to deal with if they would not be using

authorization. He noted Maria Brown manages the northern portion of MBNMS; MBNMS sees authorization as a good thing, and he thought some of the projects authorized would not have taken place without authorization. He said Carol Bernthal of the Olympic Coast National Marine Sanctuary felt the process went OK, but there may have been some pressure with a cable that was buried through OCNMS. Terms and conditions were applied to that project, and a subsequent company that bought the cable reburied some uncovered portions per the conditions. Without the ability to authorize, if the activity did not fit into a permit or Special Use Permit (SUP) category, then it would be necessary to go through the regulatory process. Authorization had not been used at Thunder Bay National Marine Sanctuary, he said. George said he had asked other advisory council chairs about authorization; they felt it was an advantage to be able to apply terms and conditions to a project. However, in the case of sinking a ship as a dive location, he was told that would never be done again. Dan noted oil and gas projects would not be able to be authorized as part of the proposed action.

The SAC and staff discussed other related topics, such as hearing from a lot of folks who were in opposition to authorization; that this should be examined through another channel; public input for a project approved by the California Coastal Commission would have its own environmental analysis and had to comply with the California Environmental Quality Act; under NEPA, there were different levels of environmental review, which could result in the agency doing an Environmental Impact Statement, and Environmental Assessment, or a Finding of No Significant Impact; and that there were overarching national marine sanctuary regulations as well as sanctuary site-specific regulations.

The question about if there was a push for all the sanctuaries to have authorization was discussed. George said the more recent sanctuaries seemed to have it, though it was not added to the National Marine Sanctuary of American Samoa. Dan said he thought some of the activities Maria had authorized in MBNMS could not have occurred without authorization. He added certification was a tool GFNMS could use for existing projects in the expansion area, for which a person would be required to apply within 60 days, such as for existing cables at Point Arena. Sarah said the Bodega Marine Laboratory would be going through that process, as they pull in seawater for tanks and other purposes, then discharge it.

George asked people thought about expansion of the boundary, aside from regulatory issues. Advisory council members expressed support.

Lance moved to support the expansion of CBNMS boundaries as proposed in the rule; this was seconded by John.

There was a little further discussion, including a comment about wanting to see estuaries included in the boundary. George did not think the advisory council needed to comment on the various parts of the proposal for GFNMS in order to endorse the CBNMS boundary expansion, and thought people could comment on those separately.

The advisory council vote to support the expansion of CBNMS boundaries as proposed in the rule was in favor of the motion; the vote was unanimous.

The advisory council then discussed the proposed authorization regulation for CBNMS further. Discussion revolved around public input on decisions of projects proposed for authorization; going with the spirit of former Congresswoman Woolsey's bill, just extending existing CBNMS regulations to the expansion area; and reasons for including the authorization regulation. Dan reviewed the other proposed regulatory changes for CBNMS besides authorization, which included an exception for clean graywater discharge, a prohibition on disturbance, etc. of historic resources, and a prohibition on interfering with law enforcement. He affirmed that the proposed action for the CBNMS expansion area did not contain zones to protect biological hot spots.

George asked if someone could speak in favor of including the proposed authorization regulation. Dan said another option would be for the SAC to set up a working group if they wanted to postpone the decision today. George stated June 30 was the deadline for comments, with no particular right to be heard after that. There was acknowledgement that the advisory council's decision would be advice to the sanctuary superintendent, would be taking all the advice received on the proposed action to ONMS; there was feeling that having a working group in the middle of that would not make sense.

Dan, when asked if authorization would be useful to him, stated if ONMS was seriously going to consider coastal zone management in a holistic view from Cambria to Point Arena, commercial and other activities otherwise prohibited would need to be considered; the NMSA mandates ONMS consider multiple uses if such an activity does not negatively impact sanctuary resources. ONMS wanted to be able to do the best job possible to manage activities in this area to best protect resources but still have the flexibility to allow activities that would not have a significant impact on the sanctuaries. He has not needed the ability to authorize to date, but felt that, if, for whatever reason, it made the most sense to have an activity occur in CBNMS, CBNMS should have the ability to authorize another agency's lease, license, permit, etc. Without the ability to authorize an activity, it would have to move to another place outside CBNMS, he noted. There was a possibility the activity could later be allowed through a rule change.

Joseph Scarpa provided examples from Florida Keys National Marine Sanctuary of where it was useful and used. He was pretty sure it was used for emergencies, such as for calling in contractors to deal with vessel groundings, and for digging a trench in seagrass to allow removal of a large sailboat. There was also a law enforcement project in which illegally placed structures on the seafloor were being removed, and the project had to be contracted out – this didn't really damage resources, and did not need to go through a regulatory process, in his opinion. He agreed with having the authorization regulation, within limits. Dan added that salvage operations could be permitted, but he did not know the limits of disturbance that could be permitted using existing manager's permit.

George talked about SUPs, saying they may be used for commercial purposes, such as fireworks, and there may be a charge for SUPs. There was a programmatic review of certain types of activities that are "pre-qualified" for permitting under a SUP.

In general, advisory council members did not feel there were good reasons for having the authorization regulation, or that maybe a future extended discussion about the issue made sense. People trusted Dan, but were not sure what might happen with other people in the future. Several

advisory council members mentioned wanting public input and transparency. George mentioned the issue of authorization could be considered again, during the required review of the CBNMS Management Plan, or maybe something could be tailored to fit CBNMS needs at a different time.

Todd moved not including authorization in the proposal to expand CBNMS; this was seconded by Bill. The advisory council vote for the motion was in favor, and was unanimous.

The advisory council then reviewed the draft letter for George's signature on behalf of the council. George noted it would be submitted as an official comment as part of the public comment period for the proposed action. Lilli Ferguson, advisory council coordinator, edited the draft according to the advisory council's input, including a shorter version of the Option A paragraph and deleting the Option B paragraph from the draft letter. George noted the letter described the actions the SAC took at the meeting, and so he did not think a resolution was needed to approve it. There were no objections.

Lilli agreed to work with George the day after the meeting to get the letter out and submitted online as a public comment. Bill thanked George for the background information he provided the SAC about the proposed CBNMS expansion, in a form that was understandable, saying it helped a lot. Dan said he thought it was a good discussion, and appreciated hearing people's thoughts. He remarked he felt former Congresswoman Lynn Woolsey's main objection to the proposal was the authority to authorize prohibited activities.

#### Announcements:

Todd: His organization is doing a free teacher training workshop this summer under NOAA's Bay Watershed Education and Training (B-WET) program, and he circulated a handout about it. His organization has a job announcement for a program director attorney; they are pushing NOAA to enforce the leatherback conservation zone and the loggerhead conservation zone. He also reported on recent field work: a green sea turtle was tagged in Cocos, and it swam into Galapagos, showing connectivity. Locally, there were a record number of smolts, nearly 20,000 this year. The reason was probably because the smolts had refuge from late spring rains. They don't survive late spring rains because they have little floodplain left. Unfortunately, they are going out into an El Niño ocean, so they don't know what will happen.

Lance: He hoped everyone saw President Obama's announcement about the massive ocean expansion, which Lance worked on. They are also working to bring recommendations forward on no take marine reserves. This information is on his organization's web site.

John: He saw the National Marine Fisheries Service was proposing to expand habitat for orcas in Puget Sound. He asked if it were in the purview of this group to look into that and comment on it. Lance and Dan both commented there had been sightings of Orcas around here. John said he would send George the notice of proposed rulemaking.

Sarah: She announced the summer seminar series at Bodega Marine Laboratory just came out, which she would send to Lilli to forward to SAC.

George adjourned the meeting at 3:45 PM.